



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MAP/142949

PRELIMINARY RECITALS

Pursuant to a petition filed August 10, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 04, 2012, at Milwaukee, Wisconsin.

The issues for determination are whether the agency has correctly determined the amount of Petitioner's Medicaid Purchase Plan (MAPP) premium and if the agency correctly discontinued Petitioner's benefits for failing to pay that premium.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Mary Hartung

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was receiving MAPP benefits without a premium. At that point her income consisted exclusively of Social Security benefits in the amount of \$917.00 per month.
3. In May 2012 Petitioner also began receiving pension in the amount of \$908.00 per month. This brought Petitioner's total income to \$1825.00 per month. A \$20 disregard was applied, making Petitioner's countable income \$1805.00.

4. The agency updated Petitioner's case on May 29, 2012 and determined that effective June 1, 2012 she had a premium for the MAPP program in the amount of \$1000 per month. There is no Notice of Decision in the record reflecting notice to Petitioner of this premium.
5. The agency sent Petitioner a Notice of Decision dated June 18, 2012 that informed her that her MAPP benefits were ending July 1, 2012 for failing to pay the \$1000.00 MAPP premium in June.
6. Petitioner does not have any remedial medical expenses nor does any impairment related work expense work-related expenses. She was credited with the standard living allowance of \$801.00.

DISCUSSION

The Medicaid Purchase Plan (MAPP Medicaid Purchase Plan), part of the Wisconsin Medicaid Program, allows disabled people who are working or want to work to become or remain Medicaid eligible because of higher income limits. *Medicaid Eligibility Handbook (MEH)*, §26.1. There are both financial and nonfinancial eligibility criteria that must be met. *MEH*, §§26.3 & 26.4. Among the nonfinancial criteria is the requirement that a person must be working in a paid position or participating in a Health and Employment Counseling (HEC) program in order to become MAPP eligible. *MEH*, §26.3.4. The work requirement can be suspended for up to six months where a person has an illness or hospitalization that prevents work. *MEH*, §26.3.4. A premium must be paid to receive MAPP benefits when income exceeds 150% of the Federal Poverty level. *MEH*, §26.5.1. For one person that is \$1396.25. *MEH*, §39.5.

There are two issues here. The first is whether or not Petitioner's premium has been correctly determined. The second is whether or not her case was closed correctly for failing to pay that premium.

Premiums are calculated as follows:

26.5.1 Calculation

Calculate premiums using only the member's income. Calculate a premium if the member's gross monthly amount exceeds 150% of FPL (39.5 FPL Table) for the appropriate fiscal test group size.

Steps to calculate monthly premium amount:

1. From gross monthly unearned income, subtract the following:
 - a. Special Exempt Income (15.7.2 Special Exempt Income).
 - b. Standard Living Allowance (39.4.2 EBD Deductions and Allowances).
 - c. Impairment Related Work Expenses (IRWE). For MAPP Medicaid Purchase Plan, use only anticipated incurred expenses, past medical expenses are not allowed. (15.7.4 Impairment Related Work Expenses (IRWE)).
 - d. Medical Remedial Expenses (MRE). For MAPP, use only anticipated incurred expenses, past medical expenses are not allowed. (15.7.3 Medical/Remedial Expenses (MRE))
 - e. Current COLA Disregard from January 1st through the date the FPL is effective in CARES for that year. 503, DAC, widow/widower disregards allowed in eligibility determinations can not be allowed in premium calculations.

The balance is the Adjusted Countable Unearned Income. This number may be a negative number.

2. From gross monthly earned income, subtract any remaining deductions from #1. If the result from #1 is a negative amount, change it to a positive number. The balance is the Adjusted Earned Income.

3. Multiply the adjusted earned income by three percent (.03).
4. Add the results of #3 and #1 together.
5. Compare the result from #4 to the Premium Schedule (39.10 MAPP Premiums) to determine monthly premium amount.

MEH §26.5.1

Petitioner's income is over the 150% of the FPL so she does owe a premium. Petitioner filed this appeal to challenge the \$1000.00 premium. I have reviewed that calculation using the income figures noted in the Findings and by going through the formula noted above and found at *MEH §26.5.1* and do not find any error in the calculation concluding that the premium is \$1000.00.

That premium is not effective, however, until a notice is provided to Petitioner. *MEH, §26.9*. Here the agency determined that Petitioner had a \$1000 premium effective June 1st on May 29th. There is nothing to indicate a Notice of Decision was sent to Petitioner to inform her of the decision; nonetheless even if there was a notice it could not have been sent with the required 10 days advance notice of the premium. Thus I conclude that the agency incorrectly discontinued Petitioner's MAPP benefits for failing to pay a premium.

Finally, Petitioner should note that, per the *MEH at §§26.6.1 and 26.6.2*:

26.6.1 MAPP RRP Introduction

When a member A recipient of Medicaid; formerly referred to as a "client." is placed in a restrictive re-enrollment period (RRP), s/he is ineligible for the next six consecutive months following the closure of MAPP Medicaid Purchase Plan, unless there is good cause (26.6.2 Good Cause). After the six consecutive months, the member may regain eligibility if s/he pays all arrears and current premiums. After 12 calendar months, s/he may regain eligibility without paying the past due premiums.

RRPs are tied to non-payment of premiums only. RRP's do not apply to recipients who have not met HEC requirements.

26.6.2 Good Cause

The following are good cause reasons for not paying a MAPP premium:

1. Problems with electronic funds transfer.
2. Problems with an employer's wage withholding.
3. Administrative error in processing the premium.
4. Fair hearing decision.
5. Those you determine are beyond the member's control.

CONCLUSIONS OF LAW

1. That Petitioner's income is in excess of 150% of the FPL thus she does owe a premium.
2. That the agency correctly determined that the about Petitioner's MAPP premium is \$1000 per month.
3. Petitioner was not properly noticed as to the \$1000.00 premium so her MAPP benefits were incorrectly discontinued.

THEREFORE, it is

ORDERED

This matter is remanded to the agency with instructions to take the steps necessary provide proper written notice to Petitioner of the amount of her MAPP premium and to restore, within 10 days of the date of this order, her MAPP benefits until that notice is issued.

In all other respects, this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

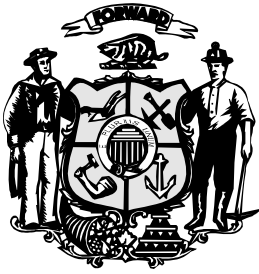
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of October, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSDHADHCAA@W isconsin.gov -
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Enrollment Services



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The preceding decision was sent to the following parties on October 29, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability